

PUBLIC LAW 103-206 [H.R. 2150]; December 20, 1993

## COAST GUARD AUTHORIZATION ACT OF 1993

*For Legislative History of Act, see p. 3104.*

*An Act to authorize appropriations for fiscal year 1994 for the United States Coast Guard, and for other purposes.*

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

### SECTION 1. SHORT TITLE.

This Act may be cited as the "Coast Guard Authorization Act of 1993".

Coast Guard  
Authorization  
Act of  
1993.

## TITLE I—AUTHORIZATIONS

### SEC. 101. AUTHORIZATION OF APPROPRIATIONS.

Funds are authorized to be appropriated for necessary expenses of the Coast Guard for fiscal year 1994, as follows:

(1) For the operation and maintenance of the Coast Guard, \$2,612,552,200, of which \$25,000,000 shall be derived from the Oil Spill Liability Trust Fund, and of which \$35,000,000 shall be expended from the Boat Safety Account.

(2) For the acquisition, construction, rebuilding, and improvement of aids to navigation, shore and offshore facilities, vessels, and aircraft, including equipment related thereto, \$417,996,500, to remain available until expended, of which \$23,030,000 shall be derived from the Oil Spill Liability Trust Fund to carry out the purposes of section 1012(a)(5) of the Oil Pollution Act of 1990.

(3) For research, development, test, and evaluation of technologies, materials, and human factors directly relating to improving the performance of the Coast Guard's mission in support of search and rescue, aids to navigation, marine safety, marine environmental protection, enforcement of laws and treaties, ice operations, and defense readiness, \$25,000,000, to remain available until expended, of which \$4,457,000 shall be derived from the Oil Spill Liability Trust Fund.

(4) For retired pay (including the payment of obligations otherwise chargeable to lapsed appropriations for this purpose), payments under the Retired Serviceman's Family Protection and Survivor Benefit Plans, and payments for medical care of retired personnel and their dependents under chapter 55 of title 10, United States Code, \$548,774,000.

(5) For alteration or removal of bridges over navigable waters of the United States constituting obstructions to navigation associated with the Bridge Alteration Program, \$12,940,000, to remain available until expended.

(6) For environmental compliance and restoration at Coast Guard facilities, \$23,057,000, to remain available until expanded.

**SEC. 102. AUTHORIZED LEVELS OF MILITARY STRENGTH AND MILITARY TRAINING.**

(a) **AUTHORIZED MILITARY STRENGTH LEVEL.**—The Coast Guard is authorized an end-of-year strength for active duty personnel of 39,138 as of September 30, 1994. The authorized strength does not include members of the Ready Reserve called to active duty for special or emergency augmentation of regular Coast Guard forces for periods of 180 days or less.

(b) **AUTHORIZED LEVEL OF MILITARY TRAINING.**—For fiscal year 1994, the Coast Guard is authorized average military training student loads as follows:

- (1) For recruit and special training, 1,986 student years.
- (2) For flight training, 114 student years.
- (3) For professional training in military and civilian institutions, 338 student years.
- (4) For officer acquisition, 955 student years.

**TITLE II—PERSONNEL MANAGEMENT  
IMPROVEMENT**

**SEC. 201. CEILING ON OFFICER CORPS.**

Subsection (a) of section 42 of title 14, United States Code, is amended by striking “6,000” and inserting “6,200”.

**SEC. 202. VOLUNTEER SERVICES.**

Section 93 of title 14, United States Code, is amended by—

- (1) striking “and” at the end of paragraph (r);
- (2) striking the period at the end of paragraph (s) and inserting a comma; and

(3) adding at the end the following new subsection:

“(t) notwithstanding any other law, enter into cooperative agreements with States, local governments, non-governmental organizations, and individuals, to accept and utilize voluntary services for the maintenance and improvement of natural and historic resources on, or to benefit natural and historic research on, Coast Guard facilities, subject to the requirement that—

“(1) the cooperative agreements shall each provide for the parties to contribute funds or services on a matching basis to defray the costs of such programs, projects, and activities under the agreement; and

“(2) a person providing voluntary services under this subsection shall not be considered a Federal employee except for purposes of chapter 81 of title 5, United States Code, with respect to compensation for work-related injuries, and chapter 171 of title 28, United States Code, with respect to tort claims; and”.

**SEC. 203. RESERVE RETENTION BOARDS.**

Section 741 of title 14, United States Code, is amended—

- (1) in subsection (a) in the first sentence by striking “and are not on active duty and not on an approved list of selectees

(c)(1) This section does not affect the authority of the Secretary of Transportation under chapter 33 of title 46, United States Code, to regulate the operation of the vessels listed in subsection (b) to ensure the safe carriage of oil and hazardous substances.

(2) This section does not affect the requirement for fish tender vessels engaged in the Aleutian trade to comply with chapters 33, 45, 51, 81, and 87 of title 46, United States Code, as provided in the Aleutian Trade Act of 1990 (Public Law 101-595).

Hazardous  
substances.

**SEC. 322. OIL SPILL RECOVERY OPERATIONS.**

(a) Section 8104 of title 46, United States Code, is amended—

(1) in subsection (g), by striking “a vessel used only to respond to a discharge of oil or a hazardous substance,”; and

(2) by adding a new subsection to read as follows:

“(p) On a vessel used only to respond to a discharge of oil or a hazardous substance, the licensed individuals and crewmembers may be divided into at least two watches when the vessel is engaged in an operation less than 12 hours in duration.”.

(b) Section 8301 of title 46, United States Code, is amended by adding a new subsection to read as follows:

“(e) A vessel used only to respond to a discharge of oil or a hazardous substance shall have—

“(1) two licensed mates when the vessel is engaged in an operation over 12 hours in duration;

“(2) one licensed mate when the vessel is engaged in an operation less than 12 hours in duration; and

“(3) if the vessel is more than 200 gross tons, a licensed engineer when the vessel is operating.”.

**SEC. 323. LIMITATIONS ON PERFORMANCE OF LONGSHORE WORK BY ALIEN CREWMEMBERS—ALASKA EXCEPTION.**

(a) ALASKA EXCEPTION.—Section 258 of the Immigration and Nationality Act (8 U.S.C. 1288) is amended—

(1) by redesignating subsection (d) as subsection (e); and

(2) by inserting after subsection (c) the following new subsection:

“(d) STATE OF ALASKA EXCEPTION.—(1) Subsection (a) shall not apply to a particular activity of longshore work at a particular location in the State of Alaska if an employer of alien crewmen has filed an attestation with the Secretary of Labor at least 30 days before the date of the first performance of the activity (or anytime up to 24 hours before the first performance of the activity, upon a showing that the employer could not have reasonably anticipated the need to file an attestation for that location at that time) setting forth facts and evidence to show that—

“(A) the employer will make a bona fide request for United States longshore workers who are qualified and available in sufficient numbers to perform the activity at the particular time and location from the parties to whom notice has been provided under clauses (ii) and (iii) of subparagraph (D), except that—

“(i) wherever two or more contract stevedoring companies have signed a joint collective bargaining agreement with a single labor organization described in subparagraph (D)(i), the employer may request longshore workers from only one of such contract stevedoring companies, and

“(ii) a request for longshore workers to an operator of a private dock may be made only for longshore work

to be performed at that dock and only if the operator meets the requirements of section 32 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 932);

"(B) the employer will employ all those United States longshore workers made available in response to the request made pursuant to subparagraph (A) who are qualified and available in sufficient numbers and who are needed to perform the longshore activity at the particular time and location;

"(C) the use of alien crewmembers for such activity is not intended or designed to influence an election of a bargaining representative for workers in the State of Alaska; and

"(D) notice of the attestation has been provided by the employer to—

"(i) labor organizations which have been recognized as exclusive bargaining representatives of United States longshore workers within the meaning of the National Labor Relations Act and which make available or intend to make available workers to the particular location where the longshore work is to be performed,

"(ii) contract stevedoring companies which employ or intend to employ United States longshore workers at that location, and

"(iii) operators of private docks at which the employer will use longshore workers.

"(2)(A) An employer filing an attestation under paragraph (1) who seeks to use alien crewmen to perform longshore work shall be responsible while at the attestation is valid to make bona fide requests for United States longshore workers under paragraph (1)(A) and to employ United States longshore workers, as provided in paragraph (1)(B), before using alien crewmen to perform the activity or activities specified in the attestation, except that an employer shall not be required to request longshore workers from a party if that party has notified the employer in writing that it does not intend to make available United States longshore workers to the location at which the longshore work is to be performed.

"(B) If a party that has provided such notice subsequently notifies the employer in writing that it is prepared to make available United States longshore workers who are qualified and available in sufficient numbers to perform the longshore activity to the location at which the longshore work is to be performed, then the employer's obligations to that party under subparagraphs (A) and (B) of paragraph (1) shall begin 60 days following the issuance of such notice.

"(3)(A) In no case shall an employer filing an attestation be required—

"(i) to hire less than a full work unit of United States longshore workers needed to perform the longshore activity;

"(ii) to provide overnight accommodations for the longshore workers while employed; or

"(iii) to provide transportation to the place of work, except where—

"(I) surface transportation is available;

"(II) such transportation may be safely accomplished;

"(III) travel time to the vessel does not exceed one-half hour each way; and

"(IV) travel distance to the vessel from the point of embarkation does not exceed 5 miles.

"(B) In the cases of Wide Bay, Alaska, and Klawock/Craig, Alaska, the travel times and travel distances specified in subclauses (III) and (IV) of subparagraph (A) shall be extended to 45 minutes and 7½ miles, respectively, unless the party responding to the request for longshore workers agrees to the lesser time and distance limitations specified in those subclauses.

"(4) Subject to subparagraphs (A) through (D) of subsection (c)(4), attestations filed under paragraph (1) of this subsection shall—

"(A) expire at the end of the 1-year period beginning on the date the employer anticipates the longshore work to begin, as specified in the attestation filed with the Secretary of Labor, and

"(B) apply to aliens arriving in the United States during such 1-year period if the owner, agent, consignee, master, or commanding officer states in each list under section 251 that it continues to comply with the conditions in the attestation.

"(5)(A) Except as otherwise provided by subparagraph (B), subsection (c)(3) and subparagraphs (A) through (E) of subsection (c)(4) shall apply to attestations filed under this subsection.

"(B) The use of alien crewmen to perform longshore work in Alaska consisting of the use of an automated self-unloading conveyor belt or vacuum-actuated system on a vessel shall be governed by the provisions of subsection (c).

"(6) For purposes of this subsection—

"(A) the term 'contract stevedoring companies' means those stevedoring companies licensed to do business in the State of Alaska that meet the requirements of section 32 of the Longshoremen's and Harbor Workers' Compensation Act (33 U.S.C. 932);

"(B) the term 'employer' includes any agent or representative designated by the employer; and

"(C) the terms 'qualified' and 'available in sufficient numbers' shall be defined by reference to industry standards in the State of Alaska, including safety considerations."

(b) CONFORMING AMENDMENTS.—

(1) Section 258(a) (8 U.S.C. 1288(a)) is amended by striking "subsection (c) or subsection (d)" and inserting "subsection (c), (d), or (e)".

(2) Section 258(c)(4)(A) (8 U.S.C. 1288(c)(4)(A)) is amended by inserting "or subsection (d)(1)" after "paragraph (1)" each of the two places it appears.

(3) Section 258(c) (8 U.S.C. 1288(c)) is amended by adding at the end the following new paragraph:

"(5) Except as provided in paragraph (5) of subsection (d), this subsection shall not apply to longshore work performed in the State of Alaska."

(c) IMPLEMENTATION.—(1) The Secretary of Labor shall prescribe such regulations as may be necessary to carry out this section.

(2) Attestations filed pursuant to section 258(c) (8 U.S.C. 1288(c)) with the Secretary of Labor before the date of enactment of this Act shall remain valid until 60 days after the date of issuance of final regulations by the Secretary under this section.

Regulations.  
\* USC 1288  
note.

Massachusetts.

#### SEC. 324. CAPE COD LIGHTHOUSE PLANNING AND DESIGN STUDIES

(a) COMPLETION OF STUDIES.—